IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE G. BIKSHAPATHY

AND
THE HON'BLE SRI JUSTICE Ch.S.R.K. PRASAD

WRIT PETITION No. 16854 of 2004

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Between:

P.Satyavathi, W/o.P.Chinnabbai,
R/o.Peddabodipalli (V), Narsipatnam (M),

Visakhapatnam Dist.

..... PETITIONER

AND

1 The Collector and District Magistrate, Visakhapatnam.
2 The Chief Secretary, Govt. of A.P.,Hyderabad.
3 The Superintendent of Central Prison, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Habeas Corpus under Article 226 of the Constitution of India directing the Respondents to produce Sri Penke Chinnabbai, now detained in Central Prison, Visakhapatnam, before this Hon'ble court and he may be released forth with after declaring that his detention is illegal and void.

Counsel for the Petitioner : Mr.C.PRAVEEN KUMAR

Counsel for Respondents : THE ADVOCATE GENERAL

The Court made the following :

ORDER: (per the Hon'ble Sri Justice G.Bikshapathy)

In this writ petition, the order of detention dated 20.8.2004 is challenged.

2. Among number of grounds, one such ground is that the detenu was not informed that he has a right to represent before the detaining authority which is violative of Article 22(5) of the Constitution of India.

3. Similar writ petitions were heard and disposed of by this Court in W.P.No.15867 of 2004 and batch dated 4.10.2004 wherein it was held that non-mentioning in the detention order about the representation to be submitted by the detenu to the detaining authority would vitiate the order of detention and accordingly the order of detention was held as invalid.

4. Following the decision in the said writ petitions, this writ petition is allowed and the order of detention in Proceedings Rc.No.1415/2004/D3 dated 20.8.2004 passed by the 1st respondent-Collector & District Magistrate, Visakhapatnam, as approved by the 2nd respondent-Government of Andhra Pradesh in G.O.Rt.No.4956, General Administration (L&O-II) Department dated 28.8.2004 is hereby set aside and the detenu namely Penke Chinnabbai S/o late Nookalu shall be set at liberty forthwith, if he is not required in any other crime. No costs.

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G.BIKSHAPATHY, J

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CH.S.R.K.PRASAD, J

Date: 5.10.2004

DA

To

1 The Collector and District Magistrate, Visakhapatnam, Visakhapatnam

District.
2 The Chief Secretary, Govt. of A.P.,Hyderabad.
3 The Superintendent of Central Prison, Visakhapatnam, Visakhapatnam

District.

4 Two CCs to the Advocate General, High Court Buildings,
Hyderabad (OUT).

5 Two spare copies.